



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, DC 20240

APR 11 2012

Re: **Marion E. Stratton House, 111 South Lafayette Street, Lewisburg, West Virginia**
Project Number: **26241**

Dear

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), National Park Service (NPS), denying certification of the rehabilitation of the property cited above. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you for speaking with me via a conference call on April 4, 2012, and for providing a detailed account of the project.

After careful review of the complete record for this project, I have determined that the rehabilitation of the Marion E. Stratton House for use as a restaurant is not consistent with the historic character of the property and the historic district in which it is located, and that the project does not meet Standards 2, 3, 5, 6, and 9 of the Secretary of the Interior's Standards for Rehabilitation (the Standards). Therefore, the denial issued on September 22, 2011, by TPS is hereby affirmed.

The Marion E. Stratton House (1898) is located in the Lewisburg Historic District, and was certified as contributing to the significance of the district on July 7, 1978. In its review, TPS found that the nearly completed rehabilitation of this "certified historic structure" did not meet the Standards owing to a number of treatments on both the exterior and the interior. The exterior changes include the reconstruction of the front porch, enlarging it in both width and depth, the demolition of two additions at the rear, the construction of new additions, and the replacement of all the windows. The interior modifications include replacing all plaster wall finishes with wallboard, the addition of new ornamental woodwork, and changes to the floor plan. Additionally, TPS cited the general lack of information documenting the structure's appearance and condition prior to rehabilitation.

As a preliminary matter, I agree with TPS that the application initially submitted lacked adequate documentation. Very few photographs showed the building before rehabilitation work began. This deficiency was remedied to some extent by the additional photographs submitted in support of your appeal. These photographs, further supplemented by your descriptions in our conversation, confirm the general assessment by TPS that these treatments taken together have diminished the authentic historic character of the Stratton House. A further complicating factor is that the two floor plans submitted with the application were not accurate. When compared to the photographs, the drawing labeled "PRE RESTORATION" did not accurately depict existing partitions, doors and fireplaces, and the drawing labeled "POST RESTORATION" indicated that a partition with a door and a chimney with two back-to-back fireplaces was removed (only the door was removed) and that the two front windows were removed and replaced with four new windows (they were not).

Prior to rehabilitation, the building featured a porch facing onto Lafayette Street with ornamental details, including jig-sawn columns, brackets, and fretwork. This historic porch was replaced with a new one. In our conversation, you stated that the original porch was fourteen feet wide and six feet deep and that the new porch is twenty-two feet wide by eight feet deep, and disagreed with the assertion by TPS that the new porch was "significantly expanded" and covered "almost the entire width of the house." Regardless of the characterization by TPS, I find that the new porch is clearly much larger than the historic one; it now covers the windows on either side of the front door. I also find no basis for replacing the historic porch aside from your stated desire to enlarge the porch to accommodate outdoor tables for restaurant patrons. Moreover, details of the new porch differ from the historic porch; structural components have become larger to support the longer spans and intermediate posts were added between the ornamental columns to support the heavier roof structure. The rehabilitation has thus removed an existing, historic porch characteristic of its period and replaced it with a new one that purports to be historic—by replicating historic decorative features—but is not, and—because of its scale relative to the massing of the house—has become the dominant feature of the facade. As a result, I find that the new porch causes the project to contravene Standards 2, 5, and 9. Standard 2 states: "*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*" Standard 5 states: "*Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*" Standard 9 states: "*New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*"

I also agree with the TPS determination that the new replacement windows are not compatible with the historic character of the building. The new windows feature six panes in the upper sash and six in the lower. Windows with this pane configuration, commonly referred to as "six-over-six," appeared largely in houses up to the 1860's, to be replaced—as glass technology progressed—by "two-over-two" and then by "one-over-one" configurations. In my professional opinion, late-nineteenth century houses would have featured "one-over-one" at least in the street facades and likely on the other facades as well. "Six-over-six" windows reemerged in the early decades of the twentieth century with the appearance of buildings designed in the Colonial Revival style. Thus, I find that installing "six-over-six" windows in this 1898 house brings the project into conflict with Standard 6, inasmuch as there is no evidence that they ever existed on this particular historic property. Standard 6 states: "*Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.*" (I note here your offer to remove the applied muntin grids, thus converting the windows to a "one-over-one" configuration; however, given the other treatments discussed here, modifying the windows alone would not suffice to bring the overall project into conformance with the Standards.) Also with regard to the windows, the existing two, unequally-sized windows on the north facade were removed and were replaced with four equally-sized windows, with only the easternmost window in its original location, which contravenes Standard 2, quoted above.

The other exterior issue cited in the TPS decision is the demolition of two existing additions and the construction of new ones at the rear. Although they were clearly of some age, the additions removed were not original, were fairly small, and were significantly deteriorated. The scale and massing of the new additions are in general compatible with this modest house, but the windows, particularly those facing onto Foster Street, are not compatible with the historic residential character of the building. However, their overall impact as components of new construction is not sufficient to cause the new additions to fail

to comply with Standard 9, quoted above. Consequently, the new additions have not entered into my decision.

On the interior, moving partitions, removing, enlarging and/or moving door openings, and removing virtually all the historic wall plaster and replacing it with wallboard, has resulted in the loss of substantial historic fabric, in contravention of Standards 5 and 6, quoted above. In addition, replacing the modest trim throughout the house with elaborate window trim, baseboards, and crown moldings has resulted in the replacement of historic fabric and features with conjectural features, also in contravention of Standards 5 and 6, as well as Standard 3, which states: *"Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken."*

In our meeting you stated your conviction that the rehabilitation of this structure has fulfilled the spirit of the Federal rehabilitation investment tax credit, namely, of promoting the reuse of abandoned and deteriorating buildings. You also spoke of the positive effects the rehabilitation of the structure has had on the town of Lewisburg and on the Lewisburg Historic District. I have no doubt about the beneficial effects of reviving abandoned or underused buildings such as this one; however, the law establishing the rehabilitation tax credit requires that rehabilitations of historic buildings must be consistent with the historic character of such buildings, and that is unfortunately not the case here. Moreover, Department of the Interior regulations governing the program state that, *"In situations involving rehabilitation of a certified historic structure in a historic district, the Secretary will review the rehabilitation project first as it affects the certified historic structure and second as it affects the district and make a certification decision accordingly."* [36 CFR §67. 6(b)(6)]

Lastly, I note that the restaurant was already open and the project was nearly complete before either the State Historic Preservation Office or the NPS had the opportunity to review or comment on it, and thus to suggest ways of meeting the minimum statutory test for certification. The NPS has always recommended in program regulations, in the application instructions, and in its basic program brochure, that owners apply before beginning work. While owners are free to apply after work has begun, the program regulations caution that, *"Owners who undertake rehabilitation projects without prior approval from the Secretary do so strictly at their own risk."* [36 CFR § 67.6(a)(1)]

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the September 22, 2011, denial that TPS issued regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,



John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO-WV
IRS